



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1826

Introduced 2/20/2015, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

See Index

Amends the Regulatory Sunset Act. Extends the repeal of the Respiratory Care Practice Act from January 1, 2016 to January 1, 2026. Amends the Respiratory Care Practice Act. Changes references from the Director of Professional Regulation to the Secretary of Financial and Professional Regulation. Makes changes in provisions regarding definitions, restrictions and limitations, powers and duties of the Department of Financial and Professional Regulation, the Respiratory Care Board, examinations, license restoration, grounds for discipline, notice of hearings, transcript of formal hearings, hearing officer proceedings, restoration of suspended or revoked licenses, summary suspension of licenses, administrative review, costs, and the Illinois Administrative Procedure Act. Provides that parties involved in disciplinary or other proceedings may enter into negotiated consent orders. Provides that all information collected by the Department in the course of examination or investigation of a licensee or applicant remain confidential. Makes other changes. Effective immediately.

LRB099 07025 HAF 27108 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Regulatory Sunset Act is amended by changing
5 Section 4.26 and by adding Section 4.36 as follows:

6 (5 ILCS 80/4.26)

7 Sec. 4.26. Acts repealed on January 1, 2016. The following
8 Acts are repealed on January 1, 2016:

9 The Illinois Athletic Trainers Practice Act.

10 The Illinois Roofing Industry Licensing Act.

11 The Illinois Dental Practice Act.

12 The Collection Agency Act.

13 The Barber, Cosmetology, Esthetics, Hair Braiding, and
14 Nail Technology Act of 1985.

15 ~~The Respiratory Care Practice Act.~~

16 The Hearing Instrument Consumer Protection Act.

17 The Illinois Physical Therapy Act.

18 The Professional Geologist Licensing Act.

19 (Source: P.A. 95-331, eff. 8-21-07; 95-876, eff. 8-21-08;
20 96-1246, eff. 1-1-11.)

21 (5 ILCS 80/4.36 new)

22 Sec. 4.36. Act repealed on January 1, 2026. The following

1 Act is repealed on January 1, 2026:

2 The Respiratory Care Practice Act.

3 Section 10. The Respiratory Care Practice Act is amended by
4 changing Sections 10, 20, 30, 35, 40, 45, 65, 80, 95, 100, 105,
5 110, 115, 125, 130, 135, 140, 145, 150, 160, 170, and 180 and
6 by adding Sections 190 and 195 as follows:

7 (225 ILCS 106/10)

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 10. Definitions. In this Act:

10 "Address of record" means the designated address recorded
11 by the Department in the applicant's or licensee's application
12 file or license file as maintained by the Department's
13 licensure maintenance unit. It is the duty of the applicant or
14 licensee to inform the Department of any change of address and
15 those changes must be made either through the Department's
16 website or by contacting the Department.

17 "Advanced practice nurse" means an advanced practice nurse
18 licensed under the Nurse Practice Act.

19 "Board" means the Respiratory Care Board appointed by the
20 Secretary ~~Director~~.

21 "Basic respiratory care activities" means and includes all
22 of the following activities:

23 (1) Cleaning, disinfecting, and sterilizing equipment
24 used in the practice of respiratory care as delegated by a

1 licensed health care professional or other authorized
2 licensed personnel.

3 (2) Assembling equipment used in the practice of
4 respiratory care as delegated by a licensed health care
5 professional or other authorized licensed personnel.

6 (3) Collecting and reviewing patient data through
7 non-invasive means, provided that the collection and
8 review does not include the individual's interpretation of
9 the clinical significance of the data. Collecting and
10 reviewing patient data includes the performance of pulse
11 oximetry and non-invasive monitoring procedures in order
12 to obtain vital signs and notification to licensed health
13 care professionals and other authorized licensed personnel
14 in a timely manner.

15 (4) Maintaining a nasal cannula or face mask for oxygen
16 therapy in the proper position on the patient's face.

17 (5) Assembling a nasal cannula or face mask for oxygen
18 therapy at patient bedside in preparation for use.

19 (6) Maintaining a patient's natural airway by
20 physically manipulating the jaw and neck, suctioning the
21 oral cavity, or suctioning the mouth or nose with a bulb
22 syringe.

23 (7) Performing assisted ventilation during emergency
24 resuscitation using a manual resuscitator.

25 (8) Using a manual resuscitator at the direction of a
26 licensed health care professional or other authorized

1 licensed personnel who is present and performing routine
2 airway suctioning. These activities do not include care of
3 a patient's artificial airway or the adjustment of
4 mechanical ventilator settings while a patient is
5 connected to the ventilator.

6 "Basic respiratory care activities" does not mean activities
7 that involve any of the following:

8 (1) Specialized knowledge that results from a course of
9 education or training in respiratory care.

10 (2) An unreasonable risk of a negative outcome for the
11 patient.

12 (3) The assessment or making of a decision concerning
13 patient care.

14 (4) The administration of aerosol medication or
15 oxygen.

16 (5) The insertion and maintenance of an artificial
17 airway.

18 (6) Mechanical ventilatory support.

19 (7) Patient assessment.

20 (8) Patient education.

21 "Department" means the Department of Financial and
22 Professional Regulation.

23 ~~"Director" means the Director of Professional Regulation.~~

24 "Licensed" means that which is required to hold oneself out
25 as a respiratory care practitioner as defined in this Act.

26 "Licensed health care professional" means a physician

1 licensed to practice medicine in all its branches, an advanced
2 practice nurse who has a written collaborative agreement with a
3 collaborating physician that authorizes the advanced practice
4 nurse to transmit orders to a respiratory care practitioner, or
5 a physician assistant who has been delegated the authority to
6 transmit orders to a respiratory care practitioner by his or
7 her supervising physician.

8 "Order" means a written, oral, or telecommunicated
9 authorization for respiratory care services for a patient by
10 (i) a licensed health care professional who maintains medical
11 supervision of the patient and makes a diagnosis or verifies
12 that the patient's condition is such that it may be treated by
13 a respiratory care practitioner or (ii) a certified registered
14 nurse anesthetist in a licensed hospital or ambulatory surgical
15 treatment center.

16 "Other authorized licensed personnel" means a licensed
17 respiratory care practitioner, a licensed registered nurse, or
18 a licensed practical nurse whose scope of practice authorizes
19 the professional to supervise an individual who is not
20 licensed, certified, or registered as a health professional.

21 "Proximate supervision" means a situation in which an
22 individual is responsible for directing the actions of another
23 individual in the facility and is physically close enough to be
24 readily available, if needed, by the supervised individual.

25 "Respiratory care" and "cardiorespiratory care" mean
26 preventative services, evaluation and assessment services,

1 therapeutic services, and rehabilitative services under the
2 order of a licensed health care professional or a certified
3 registered nurse anesthetist in a licensed hospital for an
4 individual with a disorder, disease, or abnormality of the
5 cardiopulmonary system. These terms include, but are not
6 limited to, measuring, observing, assessing, and monitoring
7 signs and symptoms, reactions, general behavior, and general
8 physical response of individuals to respiratory care services,
9 including the determination of whether those signs, symptoms,
10 reactions, behaviors, or general physical responses exhibit
11 abnormal characteristics; the administration of
12 pharmacological and therapeutic agents related to respiratory
13 care services; the collection of blood specimens and other
14 bodily fluids and tissues for, and the performance of,
15 cardiopulmonary diagnostic testing procedures, including, but
16 not limited to, blood gas analysis; development,
17 implementation, and modification of respiratory care treatment
18 plans based on assessed abnormalities of the cardiopulmonary
19 system, respiratory care guidelines, referrals, and orders of a
20 licensed health care professional; application, operation, and
21 management of mechanical ventilatory support and other means of
22 life support; and the initiation of emergency procedures under
23 the rules promulgated by the Department. A respiratory care
24 practitioner shall refer to a physician licensed to practice
25 medicine in all its branches any patient whose condition, at
26 the time of evaluation or treatment, is determined to be beyond

1 the scope of practice of the respiratory care practitioner.

2 "Respiratory care education program" means a course of
3 academic study leading to eligibility for registry or
4 certification in respiratory care. The training is to be
5 approved by an accrediting agency recognized by the Board and
6 shall include an evaluation of competence through a
7 standardized testing mechanism that is determined by the Board
8 to be both valid and reliable.

9 "Respiratory care practitioner" means a person who is
10 licensed by the Department of Professional Regulation and meets
11 all of the following criteria:

12 (1) The person is engaged in the practice of
13 cardiorespiratory care and has the knowledge and skill
14 necessary to administer respiratory care.

15 (2) The person is capable of serving as a resource to
16 the licensed health care professional in relation to the
17 technical aspects of cardiorespiratory care and the safe
18 and effective methods for administering cardiorespiratory
19 care modalities.

20 (3) The person is able to function in situations of
21 unsupervised patient contact requiring great individual
22 judgment.

23 "Secretary" means the Secretary of Financial and
24 Professional Regulation.

25 (Source: P.A. 94-523, eff. 1-1-06; 95-639, eff. 10-5-07.)

1 (225 ILCS 106/20)

2 (Section scheduled to be repealed on January 1, 2016)

3 Sec. 20. Restrictions and limitations.

4 (a) No person shall, without a valid license as a
5 respiratory care practitioner (i) hold himself or herself out
6 to the public as a respiratory care practitioner; (ii) use the
7 title "respiratory care practitioner"; or (iii) perform or
8 offer to perform the duties of a respiratory care practitioner,
9 except as provided in Section 15 of this Act.

10 (b) Nothing in the Act shall be construed to permit a
11 person licensed as a respiratory care practitioner to engage in
12 any manner in the practice of medicine in all its branches as
13 defined by State law.

14 (Source: P.A. 94-523, eff. 1-1-06.)

15 (225 ILCS 106/30)

16 (Section scheduled to be repealed on January 1, 2016)

17 Sec. 30. Powers and duties of the Department. Subject to
18 the provision of this Act, the Department may:

19 (a) Authorize examinations to ascertain the qualifications
20 and fitness of an applicant for licensure as a respiratory care
21 practitioner.

22 (b) Pass upon the qualifications of an applicant for
23 licensure by endorsement.

24 (c) Conduct hearings on proceedings to refuse to issue,
25 renew, or revoke a license or to suspend, place on probation,

1 or reprimand a license issued or applied for ~~person licensed~~
2 under this Act.

3 (d) Formulate rules required for the administration of this
4 Act. Notice of proposed rulemaking shall be transmitted to the
5 Board, and the Department shall review the Board's response and
6 any recommendations made in the response.

7 (e) Solicit the advice and expert knowledge of the Board on
8 any matter relating to the administration and enforcement of
9 this Act.

10 (f) (Blank). ~~Issue a quarterly report to the Board of the~~
11 ~~status of all complaints related to licensed practitioners~~
12 ~~received by the Department.~~

13 (g) Maintain a roster of the names and addresses of all
14 licenses and all persons whose licenses have been suspended,
15 revoked, or denied renewal for cause within the previous
16 calendar year. The roster shall be available upon written
17 request and payment of the required fee.

18 (Source: P.A. 89-33, eff. 1-1-96.)

19 (225 ILCS 106/35)

20 (Section scheduled to be repealed on January 1, 2016)

21 Sec. 35. Respiratory Care Board.

22 (a) The Secretary ~~Director~~ shall appoint a Respiratory Care
23 Board which shall serve in an advisory capacity to the
24 Secretary ~~Director~~. The Board shall consist of 9 persons of
25 which 4 members shall be currently engaged in the practice of

1 respiratory care with a minimum of 3 years practice in the
2 State of Illinois, 3 members shall be qualified medical
3 directors, and 2 members shall be hospital administrators.

4 (b) Members shall be appointed to a 3-year term; except,
5 initial appointees shall serve the following terms: 3 members
6 shall serve for one year, 3 members shall serve for 2 years,
7 and 3 members shall serve for 3 years. A member whose term has
8 expired shall continue to serve until his or her successor is
9 appointed and qualified. No member shall be reappointed to the
10 Board for a term that would cause his or her continuous service
11 on the Board to be longer than 8 years. Appointments to fill
12 vacancies shall be made in the same manner as original
13 appointments for the unexpired portion of the vacated term.
14 Initial terms shall begin upon the effective date of this Act.

15 (c) The membership of the Board shall reasonably represent
16 all the geographic areas in this State. The Secretary ~~Director~~
17 shall consider the recommendations of the organization
18 representing the largest number of respiratory care
19 practitioners for appointment of the respiratory care
20 practitioner members of the Board and the organization
21 representing the largest number of physicians licensed to
22 practice medicine in all its branches for the appointment of
23 medical directors to the board.

24 (d) The Secretary ~~Director~~ has the authority to remove any
25 member of the Board for cause at any time before the expiration
26 of his or her term. The Secretary shall be the sole arbiter of

1 ~~cause. from office for neglect of any duty required by law, for~~
2 ~~incompetence, or for unprofessional or dishonorable conduct.~~

3 (e) The Secretary ~~Director~~ shall consider the
4 recommendations of the Board on questions involving standards
5 of professional conduct, discipline, and qualifications of
6 candidates for licensure under this Act.

7 (f) The members of the Board shall be reimbursed for all
8 legitimate and necessary expenses incurred in attending
9 meetings of the Board.

10 (g) Members of the Board shall be immune from suit in any
11 action based upon any disciplinary proceedings or other
12 activities performed in good faith as members of the Board.

13 (Source: P.A. 94-523, eff. 1-1-06.)

14 (225 ILCS 106/40)

15 (Section scheduled to be repealed on January 1, 2016)

16 Sec. 40. Application for original license. Applications
17 for original license shall be made to the Department on forms
18 prescribed by the Department and accompanied by the appropriate
19 documentation and the required fee, which is not refundable.
20 All applications shall contain information that, in the
21 judgment ~~judgement~~ of the Department, will enable the
22 Department to pass on the qualifications of the applicant for a
23 license as a respiratory care practitioner.

24 (Source: P.A. 89-33, eff. 1-1-96.)

1 (225 ILCS 106/45)

2 (Section scheduled to be repealed on January 1, 2016)

3 Sec. 45. Examination; failure or refusal to take
4 examination.

5 (a) The Department shall authorize examinations of
6 applicants as respiratory care practitioners at the times and
7 places as it may determine. The examination shall test an
8 applicant's ~~the~~ competence and qualifications ~~of the applicant~~
9 to practice respiratory care.

10 (b) Applicants for examination shall pay, either to the
11 Department or to the designated testing service, a fee covering
12 the cost of providing the examination. Failure to appear for
13 the examination on the scheduled date, at the time and place
14 specified, after the application for examination has been
15 received and acknowledged by the Department or the designated
16 testing service shall result in the forfeiture of the
17 examination fee.

18 (c) If an applicant neglects, fails, or refuses to take an
19 examination, or fails to pass an examination for a license
20 under this Act within 3 years after filing an application, the
21 application shall be denied and the fee forfeited. However, the
22 applicant may thereafter submit a new application accompanied
23 by the required fee. The applicant shall meet the requirements
24 in force at the time of making the new application.

25 (d) The Department may employ consultants for the purpose
26 of preparing and conducting examinations.

1 (Source: P.A. 89-33, eff. 1-1-96.)

2 (225 ILCS 106/65)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 65. Licenses; renewal; restoration; inactive status.

5 (a) The expiration date and renewal period for each license
6 issued under this Act shall be set by rule. The licensee may
7 renew a license during the 30 day period preceding its
8 expiration date by paying the required fee and demonstrating
9 compliance with any continuing education requirements.

10 (b) A person who has permitted a license to expire or who
11 has a license on inactive status may have it restored by
12 submitting an application to the Department and filing proof of
13 fitness, as defined by rule, to have the license restored,
14 including, if appropriate, evidence that is satisfactory to the
15 Department certifying the active practice of respiratory care
16 in another jurisdiction and by paying the required fee.

17 A person practicing on an expired license is considered to
18 be practicing without a license.

19 (c) If the person has not maintained an active practice
20 that is satisfactory to the Department in another jurisdiction,
21 the Department shall determine the person's fitness to resume
22 active status. The Department may require the person to
23 complete a specified period of evaluated respiratory care and
24 may require successful completion of an examination.

25 (d) A person whose license expired while he or she was (1)

1 in federal service on active duty with the Armed Forces ~~armed~~
2 ~~forces~~ of the United States or ~~while~~ called into service or
3 training with the State Militia, or (2) ~~while~~ in training or
4 education under the supervision of the United States government
5 preliminary to ~~before~~ induction into ~~the~~ military service may
6 have his or her license restored without paying any lapsed
7 renewal fees ~~a renewal fee~~ if, within 2 years after the
8 termination of his or her service, training, or education,
9 except under conditions other than honorable, the Department is
10 furnished with satisfactory evidence that the person has been
11 so engaged and that the service, training, or education has
12 been terminated.

13 (e) A license to practice shall not be denied any applicant
14 because of the applicant's race, religion, creed, national
15 origin, political beliefs, or activities, age, sex, sexual
16 orientation, or physical impairment.

17 (Source: P.A. 89-33, eff. 1-1-96.)

18 (225 ILCS 106/80)

19 (Section scheduled to be repealed on January 1, 2016)

20 Sec. 80. Returned checks; fines. Any person who delivers a
21 check or other payment to the Department that is returned to
22 the Department unpaid by the financial institution upon which
23 it is drawn shall pay to the Department, in addition to the
24 amount already owed to the Department, a fine of \$50. The fines
25 imposed by this Section are in addition to any other discipline

1 provided under this Act for unlicensed practice or practice on
2 a nonrenewed license. The Department shall notify the person
3 that payment of fees and fines shall be paid to the Department
4 by certified check or money order within 30 calendar days of
5 the notification. If, after the expiration of 30 days from the
6 date of the notification, the person has failed to submit the
7 necessary remittance, the Department shall automatically
8 terminate the license or certificate or deny the application,
9 without hearing. If, after termination or denial, the person
10 seeks a license or certificate, he or she shall apply to the
11 Department for restoration or issuance of the license or
12 certificate and pay all fees and fines due to the Department.
13 The Department may establish a fee for the processing of an
14 application for restoration of a license or certificate to pay
15 all expenses of processing this application. The Secretary
16 ~~Director~~ may waive the fines due under this Section in
17 individual cases where the Secretary ~~Director~~ finds that the
18 fines would be unreasonable or unnecessarily burdensome.

19 (Source: P.A. 92-146, eff. 1-1-02.)

20 (225 ILCS 106/95)

21 (Section scheduled to be repealed on January 1, 2016)

22 Sec. 95. Grounds for discipline.

23 (a) The Department may refuse to issue, renew, or may
24 revoke, suspend, place on probation, reprimand, or take other
25 disciplinary or non-disciplinary action as the Department

1 considers appropriate, including the issuance of fines not to
2 exceed \$10,000 ~~\$5,000~~ for each violation, with regard to any
3 license for any one or combination ~~more~~ of the following:

4 (1) Material misstatement in furnishing information to
5 the Department or to any other State or federal agency.

6 (2) Violations of this Act, or any of the ~~its~~ rules
7 adopted under this Act.

8 (3) Conviction by plea of guilty or nolo contendere,
9 finding of guilt, jury verdict, or entry of judgment or by
10 sentencing of any crime, including, but not limited to,
11 convictions preceding sentences of supervision,
12 conditional discharge, or first offender probation, under
13 the laws of any jurisdiction of the United States or any
14 state or territory thereof: (i) that is a felony or (ii)
15 that is ~~or~~ a misdemeanor, an essential element of which is
16 dishonesty, or ~~of any crime~~ that is directly related to the
17 practice of the profession.

18 (4) Making any misrepresentation for the purpose of
19 obtaining a license.

20 (5) Professional incompetence or negligence in the
21 rendering of respiratory care services.

22 (6) Malpractice.

23 (7) Aiding or assisting another person in violating any
24 rules or provisions of this Act.

25 (8) Failing to provide information within 60 days in
26 response to a written request made by the Department.

1 (9) Engaging in dishonorable, unethical, or
2 unprofessional conduct of a character likely to deceive,
3 defraud, or harm the public.

4 (10) Violating the rules of professional conduct
5 adopted by the Department.

6 (11) Discipline by another jurisdiction, if at least
7 one of the grounds for the discipline is the same or
8 substantially equivalent to those set forth in this Act.

9 (12) Directly or indirectly giving to or receiving from
10 any person, firm, corporation, partnership, or association
11 any fee, commission, rebate, or other form of compensation
12 for any professional services not actually rendered.
13 Nothing in this paragraph (12) affects any bona fide
14 independent contractor or employment arrangements among
15 health care professionals, health facilities, health care
16 providers, or other entities, except as otherwise
17 prohibited by law. Any employment arrangements may include
18 provisions for compensation, health insurance, pension, or
19 other employment benefits for the provision of services
20 within the scope of the licensee's practice under this Act.
21 Nothing in this paragraph (12) shall be construed to
22 require an employment arrangement to receive professional
23 fees for services rendered.

24 (13) A finding that the licensee, after having her or
25 his license placed on probationary status or subject to
26 conditions or restrictions, has violated the terms of

1 probation or failed to comply with such terms or conditions
2 ~~A finding by the Department that the licensee, after having~~
3 ~~the license placed on probationary status, has violated the~~
4 ~~terms of the probation.~~

5 (14) Abandonment of a patient.

6 (15) Willfully filing false records or reports
7 relating to a licensee's practice including, but not
8 limited to, false records filed with a federal or State
9 agency or department.

10 (16) Willfully failing to report an instance of
11 suspected child abuse or neglect as required by the Abused
12 and Neglected Child Reporting Act.

13 (17) Providing respiratory care, other than pursuant
14 to an order.

15 (18) Physical or mental disability including, but not
16 limited to, deterioration through the aging process or loss
17 of motor skills that results in the inability to practice
18 the profession with reasonable judgment, skill, or safety.

19 (19) Solicitation of professional services by using
20 false or misleading advertising.

21 (20) Failure to file a tax return, or to pay the tax,
22 penalty, or interest shown in a filed return, or to pay any
23 final assessment of tax penalty, or interest, as required
24 by any tax Act administered by the Illinois Department of
25 Revenue or any successor agency or the Internal Revenue
26 Service or any successor agency.

1 (21) Irregularities in billing a third party for
2 services rendered or in reporting charges for services not
3 rendered.

4 (22) Being named as a perpetrator in an indicated
5 report by the Department of Children and Family Services
6 under the Abused and Neglected Child Reporting Act, and
7 upon proof by clear and convincing evidence that the
8 licensee has caused a child to be an abused child or
9 neglected child as defined in the Abused and Neglected
10 Child Reporting Act.

11 (23) Habitual or excessive use or addiction to alcohol,
12 narcotics, stimulants, or any other chemical agent or drug
13 that results in an inability to practice with reasonable
14 skill, judgment, or safety.

15 (24) Being named as a perpetrator in an indicated
16 report by the Department on Aging under the Adult
17 Protective Services Act, and upon proof by clear and
18 convincing evidence that the licensee has caused an adult
19 with disabilities or an older adult to be abused or
20 neglected as defined in the Adult Protective Services Act.

21 (25) Willfully failing to report an instance of
22 suspected abuse, neglect, financial exploitation, or
23 self-neglect of an adult with disabilities or an older
24 adult as required by the Adult Protective Services Act.

25 (26) Willful omission to file or record, or willfully
26 impeding the filing or recording, or inducing another

1 person to omit to file or record medical reports as
2 required by law or willfully failing to report an instance
3 of suspected child abuse or neglect as required by the
4 Abused and Neglected Child Reporting Act.

5 (27) Practicing under a false or assumed name, except
6 as provided by law.

7 (28) Willfully or negligently violating the
8 confidentiality between licensee and patient, except as
9 required by law.

10 (29) The use of any false, fraudulent, or deceptive
11 statement in any document connected with the licensee's
12 practice.

13 (b) The determination by a court that a licensee is subject
14 to involuntary admission or judicial admission as provided in
15 the Mental Health and Developmental Disabilities Code will
16 result in an automatic suspension of his or her license. The
17 suspension will end upon a finding by a court that the licensee
18 is no longer subject to involuntary admission or judicial
19 admission, the issuance of an order so finding and discharging
20 the patient, and the recommendation of the Board to the
21 Secretary ~~Director~~ that the licensee be allowed to resume his
22 or her practice.

23 All fines imposed under this Section shall be paid within
24 60 days after the effective date of the order imposing the fine
25 or in accordance with the terms set forth in the order imposing
26 the fine.

1 (Source: P.A. 98-49, eff. 7-1-13.)

2 (225 ILCS 106/100)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 100. Violations; injunctions; cease and desist order.

5 (a) If a person violates any provision of this Act, the
6 Secretary ~~Director~~ may, in the name of the People of the State
7 of Illinois, through the Attorney General, petition for an
8 order enjoining the violation or an order enforcing compliance
9 with this Act. Upon the filling of a verified petition, the
10 court with appropriate jurisdiction may issue a temporary
11 restraining order without notice or bond and may preliminarily
12 and permanently enjoin the violation. If it is established that
13 the person has violated or is violating the injunction, the
14 court may punish the offender for contempt of court.
15 Proceedings under this Section are in addition to all other
16 remedies and penalties provided by this Act.

17 (b) If a person holds himself or herself out as being a
18 respiratory care practitioner under this Act and is not
19 licensed to do so, then any licensed respiratory care
20 practitioner, interested party, or injured person may petition
21 for relief as provided in subsection (a) of this Section.

22 (c) Whenever, in the opinion of the Department, a person
23 violates any provision of this Act, the Department may issue a
24 rule to show cause why an order to cease and desist should not
25 be entered against that person. The rule shall clearly set

1 forth the grounds relied upon by the Department and shall allow
2 at least 7 days from the date of the rule to file an answer
3 satisfactory to the Department. Failure to answer to the
4 satisfaction of the Department shall cause an order to cease
5 and desist to be issued.

6 (Source: P.A. 89-33, eff. 1-1-96.)

7 (225 ILCS 106/105)

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 105. Investigations; notice; hearing. The Department
10 may investigate the actions of an applicant, a licensee, or a
11 person claiming to hold a license. The Department shall, before
12 revoking, suspending, placing on probation, reprimanding, or
13 taking any other disciplinary action under Section 95 of this
14 Act, at least 30 days before the date set for the hearing (i)
15 notify the accused, in writing, of any charges made and the
16 time and place for the hearing on the charges, (ii) direct him
17 or her to file a written answer to the charges with the Board
18 under oath within 20 days after the service upon him or her of
19 the notice, and (iii) inform the accused that, if he or she
20 fails to answer, default will be taken against him or her and
21 ~~or~~ his or her license ~~or certificate~~ may be suspended, revoked,
22 placed on probationary status, or other disciplinary action
23 taken with regard to the license, including limiting the scope,
24 nature, or extent of his or her practice, without a hearing, as
25 the Department may consider proper. In case the person, after

1 receiving notice, fails to file an answer, his or her license
2 may, in the discretion of the Department, be suspended,
3 revoked, placed on probationary status, or the Department may
4 take whatever disciplinary action is considered proper,
5 including, limiting the scope, nature, or extent of the
6 person's practice or the imposition of a fine, without a
7 hearing, if the act or acts charged constitute sufficient
8 grounds for an action under this Act. The written notice may be
9 served by personal delivery or certified mail to the address of
10 record ~~specified by the accused in his or her last notification~~
11 ~~to the Department.~~

12 (Source: P.A. 89-33, eff. 1-1-96.)

13 (225 ILCS 106/110)

14 (Section scheduled to be repealed on January 1, 2016)

15 Sec. 110. Record of proceedings; transcript. The
16 Department, at its expense, shall preserve the record of all
17 proceedings at a formal hearing of any case. The notice of
18 hearing, complaint, all other documents in the nature of
19 pleadings and written motions filed in the proceedings, the
20 transcript of testimony, the report of the Board and orders of
21 the Department shall be in the record of the proceedings. ~~The~~
22 ~~Department shall furnish a transcript of the record to any~~
23 ~~person interested in the hearing upon payment of the fee~~
24 ~~required under Section 2105-115 of the Department of~~
25 ~~Professional Regulation Law (20 ILCS 2105/2105-115).~~

1 (Source: P.A. 91-239, eff. 1-1-00.)

2 (225 ILCS 106/115)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 115. Subpoena; depositions; oaths. The Department has
5 the power to subpoena and to bring before it any person,
6 exhibit, book, document, record, file, or any other material
7 and to take testimony either orally or by deposition, or both,
8 with the same fees and mileage and in the same manner as
9 proscribed in civil cases in the courts of this State.

10 The Secretary ~~Director~~, the designated hearing officer,
11 and every member of the Board has the power to administer oaths
12 to witnesses at any hearing which the Department is authorized
13 to conduct, and any other oaths authorized in any Act
14 administered by the Department.

15 (Source: P.A. 89-33, eff. 1-1-96.)

16 (225 ILCS 106/125)

17 (Section scheduled to be repealed on January 1, 2016)

18 Sec. 125. Findings and recommendations. At the conclusion
19 of the hearing, the Board shall present to the Secretary
20 ~~Director~~ a written report of its findings of fact, conclusions
21 of law, and recommendations. The report shall contain a finding
22 of whether the licensee violated this Act or failed to comply
23 with the conditions required in this Act. The Board shall
24 specify the nature of the violation or failure to comply, and

1 shall make its recommendations to the Secretary ~~Director~~.

2 The report of findings of fact, conclusions of law, and
3 recommendations of the Board shall be the basis for the
4 Department's order for refusal or for the granting of a license
5 or for any other disciplinary action. If the Secretary ~~Director~~
6 disagrees with the recommendation of the Board, the Secretary
7 ~~Director~~ may issue an order in contravention of the Board's
8 recommendation. The Secretary ~~Director~~ shall provide a written
9 report to the Board on any disagreement and shall specify the
10 reasons for the action in the final order. The report of
11 findings of fact is not admissible in evidence against the
12 person in a criminal prosecution brought for violation of this
13 Act, but the hearing and findings of fact are not a bar to a
14 criminal prosecution brought for the violation of this Act.

15 (Source: P.A. 89-33, eff. 1-1-96.)

16 (225 ILCS 106/130)

17 (Section scheduled to be repealed on January 1, 2016)

18 Sec. 130. Board; rehearing. In any case involving the
19 refusal to issue or renew a registration, or the discipline of
20 a registrant, a copy of the Board's report shall be served upon
21 the respondent by the Department, either personally or as
22 provided in this Act for the service of the notice of hearing.
23 Within 20 calendar days after service of the notice, the
24 respondent may present to the Department a motion in writing
25 for a rehearing. The motion shall specify the particular

1 grounds for rehearing. If no motion for rehearing is filed,
2 then upon the expiration of the time specified for filing a
3 motion (or, if a motion for rehearing is denied, then upon
4 denial) the Secretary ~~Director~~ may enter an order in accordance
5 with recommendation of the Board, except as provided in Section
6 135 ~~45~~. If the respondent orders from the reporting service,
7 and pays for a transcript of the record within the time for
8 filing a motion for rehearing, the 20 calendar day period
9 within which a motion may be filed shall commence upon the
10 delivery of the transcript to the respondent.

11 (Source: P.A. 89-33, eff. 1-1-96.)

12 (225 ILCS 106/135)

13 (Section scheduled to be repealed on January 1, 2016)

14 Sec. 135. Secretary ~~Director~~; rehearing. Whenever the
15 Secretary ~~Director~~ believes that substantial justice has not
16 been done in the revocation, suspension, refusal to issue or
17 renew a license, or any other ~~the~~ discipline of an applicant or
18 a licensee, he or she may order a rehearing by the same or
19 other hearing officers.

20 (Source: P.A. 89-33, eff. 1-1-96.)

21 (225 ILCS 106/140)

22 (Section scheduled to be repealed on January 1, 2016)

23 Sec. 140. Appointment of a hearing officer. The Secretary
24 ~~Director~~ has the authority to appoint an attorney, licensed to

1 practice law in the State of Illinois, to serve as a hearing
2 officer in any action for refusal to issue or renew a license
3 or to discipline a licensee. The hearing officer has full
4 authority to conduct the hearing. ~~A At least one member or~~
5 ~~members~~ of the Board ~~may shall~~ attend hearings ~~each hearing~~.
6 The hearing officer shall report his or her findings of fact,
7 conclusions of law, and recommendations to the Board and to the
8 Secretary ~~Director~~. The Board shall have 60 calendar days from
9 receipt of the report to review it and to present its findings
10 of fact, conclusions of law, and recommendations to the
11 Secretary ~~Director~~. If the Board does not present its report
12 within the 60 day period, the Secretary ~~Director~~ may issue an
13 order based on the report of the hearing officer. If the
14 Secretary ~~Director~~ disagrees with the recommendation of the
15 Board or the hearing officer, the Secretary ~~Director~~ may issue
16 an order in contravention of the recommendation.

17 The Secretary ~~Director~~ shall promptly provide notice ~~a~~
18 ~~written explanation~~ to the Board of ~~on~~ any such disagreement.

19 (Source: P.A. 89-33, eff. 1-1-96.)

20 (225 ILCS 106/145)

21 (Section scheduled to be repealed on January 1, 2016)

22 Sec. 145. Order or certified copy; prima facie proof. An
23 order or a certified copy thereof, over the seal of the
24 Department and purporting to be signed by the Secretary
25 ~~Director~~, is prima facie proof that:

1 (1) the signature is the genuine signature of the Secretary
2 ~~Director~~;

3 (2) the Secretary ~~Director~~ is duly appointed and qualified;
4 and

5 (3) the Board and its ~~the~~ members ~~thereof~~ are qualified to
6 act.

7 (Source: P.A. 89-33, eff. 1-1-96.)

8 (225 ILCS 106/150)

9 (Section scheduled to be repealed on January 1, 2016)

10 Sec. 150. Restoration of suspended or revoked license. At
11 any time after the successful completion of a term of
12 probation, suspension or revocation of any license, the
13 Department may restore the license to the licensee upon the
14 written recommendation of the Board, unless after an
15 investigation and hearing the Board determines that
16 restoration is not in the public interest.

17 (Source: P.A. 89-33, eff. 1-1-96.)

18 (225 ILCS 106/160)

19 (Section scheduled to be repealed on January 1, 2016)

20 Sec. 160. Summary suspension of license. The Secretary
21 ~~Director~~ may summarily suspend the license of a respiratory
22 care practitioner without a hearing, simultaneously with the
23 institution of proceedings for a hearing provided for in
24 Section 105 of this Act, if the Secretary ~~Director~~ finds that

1 evidence in his or her possession indicates that the
2 continuation of practice by the respiratory care practitioner
3 would constitute an imminent danger to the public. In the event
4 that the Secretary ~~Director~~ summarily suspends the license of
5 respiratory care practitioner ~~an individual~~ without a hearing,
6 a hearing must be commenced ~~held~~ within 30 calendar days after
7 the suspension has occurred and concluded as expeditiously as
8 practical.

9 (Source: P.A. 89-33, eff. 1-1-96.)

10 (225 ILCS 106/170)

11 (Section scheduled to be repealed on January 1, 2016)

12 Sec. 170. Administrative review; certification
13 ~~Certification~~ of record; costs.

14 All final administrative decisions of the Department are
15 subject to judicial review pursuant to the Administrative
16 Review Law and its rules. The term "administrative decision" is
17 defined as in Section 3-101 of the Code of Civil Procedure.

18 Proceedings for judicial review shall be commenced in the
19 circuit court of the county in which the party applying for
20 review resides, but if the party is not a resident of this
21 State, the venue shall be in Sangamon County.

22 The Department shall not be required to certify any record
23 to the court, or file an answer in court, or otherwise appear
24 in any court in a judicial review proceeding, unless and until
25 the Department has received from the plaintiff payment of the

1 costs of furnishing and certifying the record, which costs
2 shall be determined by the Department ~~there is filed in the~~
3 ~~court, with the complaint, a receipt from the Department~~
4 ~~acknowledging payment of the costs of furnishing and certifying~~
5 ~~the record.~~ Exhibits shall be certified without cost. Failure
6 on the part of the plaintiff to file a receipt is grounds for
7 dismissal of the action. During the pendency and hearing of any
8 and all judicial proceedings incident to the disciplinary
9 action, the sanctions imposed upon the accused by the
10 Department specified in the Department's final administrative
11 decision shall, as a matter of public policy, remain in full
12 force and effect in order to protect the public pending final
13 resolution of any of the proceedings.

14 (Source: P.A. 89-33, eff. 1-1-96.)

15 (225 ILCS 106/180)

16 (Section scheduled to be repealed on January 1, 2016)

17 Sec. 180. Illinois Administrative Procedure Act;
18 application. The Illinois Administrative Procedure Act is
19 hereby expressly adopted and incorporated in this Act as if all
20 of the provisions of the Act were included in this Act, except
21 that the provision of paragraph (d) of Section 10-65 of the
22 Illinois Administrative Procedure Act, which provides that at
23 hearings the registrant or licensee has the right to show
24 compliance with all lawful requirements for retention or
25 continuation or renewal of the license, is specifically

1 excluded. For the purpose of this Act, the notice required
2 under Section 10-25 of the Illinois Administrative Procedure
3 Act is considered sufficient when mailed to address of record
4 of the licensee or applicant..

5 (Source: P.A. 89-33, eff. 1-1-96.)

6 (225 ILCS 106/190 new)

7 Sec. 190. Consent order. At any point in the proceedings as
8 provided in Sections 90 through 105 and Section 125, both
9 parties may agree to a negotiated consent order. The consent
10 order shall be final upon signature of the Secretary.

11 (225 ILCS 106/195 new)

12 Sec. 195. Confidentiality. All information collected by
13 the Department in the course of an examination or investigation
14 of a licensee or applicant, including, but not limited to, any
15 complaint against a licensee filed with the Department and
16 information collected to investigate any such complaint, shall
17 be maintained for the confidential use of the Department and
18 shall not be disclosed. The Department shall not disclose the
19 information to anyone other than law enforcement officials,
20 regulatory agencies that have an appropriate regulatory
21 interest as determined by the Secretary, or a party presenting
22 a lawful subpoena to the Department. Information and documents
23 disclosed to a federal, State, county, or local law enforcement
24 agency shall not be disclosed by the agency for any purpose to

1 any other agency or person. A formal complaint filed against a
2 licensee by the Department or any order issued by the
3 Department against a licensee or applicant shall be a public
4 record, except as otherwise prohibited by law.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.

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